

HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

GERALD WILLIAMS,

Plaintiff,

v.

SONNY PERDUE, Secretary of the U.S.
Department of Agriculture,

Defendant.

Case No. 2:19-00444-JCC

PLAINTIFF'S MOTION TO RECORD
PLAINTIFF'S CLOSING ARGUMENT
NOTE ON MOTION CALENDAR:
October 22, 2021

I. INTRODUCTION

Comes now, the Plaintiff, seeking the Court's permission to video record his closing argument for academic purposes. Plaintiff sought the consent of government counsel who

opposes the motion. Plaintiff was advised by the Court's deputy, Mr. Traber, to file this motion for the Court's consideration.

II. LEGAL STANDARD

As per Local Rule 78(b), The taking of photographs or any electronic (audio or video) recordings, and the broadcast or streaming thereof in connection with any Judicial Proceeding, is prohibited, except as authorized by the Judicial Conference of the United States or the Judicial Council of the Ninth Circuit.

The Ninth Circuit Judicial Council, in cooperation with the Judicial Conference, has authorized the District Court for the Western District of Washington to operate a cameras pilot program since 2011. Under this program, certain proceedings can be televised, broadcasted, streamed and/or recorded. The program is still in its pilot phase "to provide longer term data and information to the Committee on Court Administration and Case Management." Under the current pilot program in the Western District of Washington, the policy is as follows:

"[a] judge may authorize broadcasting, televising, recording, or taking photographs in the courtroom and in adjacent areas during investitive, naturalization, or other ceremonial proceedings. A judge may authorize such activities in the courtroom or adjacent areas during **other proceedings**, or recesses between such other proceedings, only:

- 1) for the presentation of evidence;
- 2) for the perpetuation of the record of the proceedings;
- 3) for security purposes;
- 4) for other purposes of judicial administration;
- 5) for the photographing, recording, or broadcasting of appellate arguments; or
- 6) in accordance with pilot programs approved by the Judicial Conference.

When broadcasting, televising, recording, or photographing in the courtroom or adjacent areas is permitted, a judge should ensure that it is done in a manner that will:

- 1) be consistent with the rights of the parties,
- 2) not unduly distract participants in the proceeding, and
- 3) not otherwise interfere with the administration of justice.”

Under the current policy, this Court should permit counsel to record closing arguments in this case as fully discussed below.

III. ARGUMENT

Williams is a plaintiff in a Title VII action against the federal government. His causes of action are grounded in allegations of race discrimination (disparate treatment) and retaliation for engaging in protected activity. Fifty percent of the civil cases in which proceedings were recorded under the pilot program in the Western District of Washington were civil rights cases like this one.¹ Plaintiff’s counsel wishes to utilize footage from her closing argument to show students from her litigation webinar (1) how to present a closing argument for a jury and (2) what a closing argument looks like in a post-pandemic world.

The webinar covers the mechanics of preparing a closing argument and then, the execution of it. Defendant’s closing argument will not be recorded and no member of the juror’s face will be shown while they are serving on the jury during any portion of the trial. The video will not be live streamed and only edited portions of the video will be used Plaintiff’s counsel.

Plaintiff’s request is squarely in line with the policy objectives of the pilot program, which permits a judge to authorize recording in the courtroom or adjacent areas during a court proceeding “for the presentation of evidence.” Recording this video does not present copyright infringement or privacy concerns. Only the face of the undersigned will be on screen and will appear during any edited version of the recording.

¹ Exhibit 1.

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3 By:

4 /s/ Yaida Ford

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Patricia D. Gugin, Esq.
US Attorney's Office
pat.gugin@usdoj.gov

I further certify that on this date, I mailed by US Postal Service the foregoing to the following CM/ECF participant addressed as follows:

Patricia D. Gugin, Esq.
US Attorney's Office
1201 Pacific Avenue, Suite 700
Tacoma, WA 98402

DATED this 13th day of October 2021.

/s/ Yaida O. Ford
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